

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE REGULATION

Before the Commissioner of the Office of Financial and Insurance Regulation

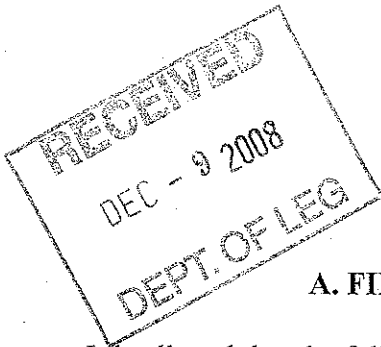
In the matter of:

Donald L. Shepherd
System ID No. 084931

Enforcement Case No. 08-5771

Respondent
_____ /

Issued and entered
on December 30 2008
by Stephen R. Hilker
Chief Deputy Commissioner



CONSENT ORDER AND STIPULATION

A. FINDINGS OF FACT AND CONCLUSIONS OF LAW

It is alleged that the following statements are true and correct:

1. At all pertinent times, Respondent Shepherd was an insurance producer registered to conduct business in the State of Michigan.
2. On May 31, 2008, Respondent Shepherd surrendered his insurance license to Mr. Randy Watkins, an OFIR Investigator.
3. In 2003, Respondent Shepherd became the administrator for the group health insurance plan for the Ministers of the Church of Christ ("Ministers").
4. As administrator, Respondent Shepherd reconciled Ministers' billing statements, added and terminated subscribers, collected quarterly premiums from Ministers members and paid the insurer's monthly invoices to Health Alliance Plan, among other activities.
5. As a licensed insurance producer, Respondent Shepherd knew or had reason to know that Section 1207(1) of the Code requires: "An agent to be a fiduciary for all money received or held by the agent in his or her capacity as an agent. Failure by an agent in a timely manner to turn over the money which he or she holds in a fiduciary capacity to the persons to whom they are owed is prima facie evidence of violation of the agent's fiduciary responsibility."

6. As a licensed insurance producer, Respondent Shepherd knew or had reason to know that Section 1239(1)(d) of the Code allows the Commissioner to place on probation, suspend, revoke, or levy a civil fine under Section 1244 or any combination thereof, for "Improperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business."
7. As a licensed insurance producer, Respondent Shepherd knew or had reason to know that Section 1239(1)(h) of the Code allows the Commissioner to place on probation, suspend, or revoke an insurance producer's license or levy a civil fine under Section 1244 of the Code for: "Using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere."
8. On or about June 2004, Respondent Shepherd began borrowing the premium money collected from Ministers each month.
9. As of January 19, 2008, Respondent Shepherd misappropriated an outstanding combined total of \$51,697.12 from members of Ministers.
10. Respondent Shepherd admitted the facts alleged above in a June 9, 2008 letter to Randy Watkins of OFIR.
11. By failing to remit premium to Health Alliance Plan on behalf of Ministers in a timely manner, it is prima facie evidence that Respondent Shepherd violated his fiduciary responsibility under Section 1207(1) of the Michigan Insurance Code, ("Code"), MCL 500.1207(1).
12. By improperly withholding, misappropriating, or converting money received in the course of doing insurance business, Respondent Shepherd violated Section 1239(1)(d) of the Code, MCL 500.1239(1)(d).
13. Respondent Shepherd used fraudulent, coercive, or dishonest practices or demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in the State of Michigan, which is a violation of Section 1239(1)(h) of the Code.
14. Based upon the above actions, Respondent Shepherd has committed acts that are grounds for the Commissioner ordering payment of a civil fine, refund of any overcharges, restitution be made to insureds to cover losses, damages or other harm attributed to Respondent's violation of the Code, and/or licensing sanctions under Section 1244(1) of the Code for the Respondent violating Section 1207(1), 1239(1)(d), and 1239(1)(h) of the Code.

B. ORDER

Based on the findings of fact and conclusions of law above and Respondent's stipulation, it is ORDERED that:

1. Respondent shall immediately cease and desist from operating in such a manner as to violate with Section 1207(1) and 1239(1)(d) and (h) of the Code, MCL 500.1207(1), 500.1239(1)(d), and 500.1239(1)(h).
2. Respondent shall payment restitution in the amount of \$51,697.12 to the following churches:

<u>CHURCH</u>	<u>DOLLAR AMOUNT OWED</u>
METRO CoC	\$2927.67
PARKSIDE CoC	\$2927.67
WATERFORD CoC	\$1272.90
ELMWOOD CoC	\$1971.78
ROSEVILLE CoC	\$4176.78
HERITAGE CoC	\$2206.36
MONROE CoC	\$2264.49
GARDEN CITY CoC	\$5855.34
ROYAL OAK CoC	\$2927.67
TRENTON CoC	\$5855.34
HIGHLAND CoC	\$2423.98
MT MORRIS CoC	\$2927.67
ROYAL OAK CoC	\$3309.54
AUBURN HILLS CoC	\$2545.80
AUBURN HILLS CoC	\$5855.34
HERITAGE CoC	\$1272.90
ELMWOOD CoC	\$975.89

TOTAL AMOUNT DUE \$51,697.12

3. Respondent's insurance producer license and authority are hereby **REVOKED**.

OFFICE OF FINANCIAL AND
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By: Stephen R. Hilker
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Chief Deputy Commissioner